

April 7, 1955
Opinion No. 55-79

REQUESTED BY: E. C. Mason, Secretary, Arizona State Board of
Pharmacy, 1242 E. McDowell Road, Phoenix,
Arizona

OPINION BY: ROBERT MORRISON, The Attorney General
H. B. Daniels, Assistant Attorney General

QUESTION: 1. Can the Arizona State Board of Pharmacy
validly promulgate a regulation forbidding the
sale within the state of medicinal preparations
which have in any way been damaged, to the ex-
tent that such preparations may have been con-
taminated and rendered dangerous for human con-
sumption?

2. Can the said board promulgate a regula-
tion forbidding the sale within the state of
any medicinal preparations, which preparations
have been subjected to intense heat, fire, or
water, to such an extent that the package or
container has been damaged?

CONCLUSION: 1. Yes
2. Yes

The board has such powers as are expressly provided by the Legis-
lature, or necessarily implied from the language of the statute.
ROBERT v. SPRAY (1950), 71 Ariz 60.

Article 15, Chapter 67, Arizona Code of 1939, as amended, incor-
porates the body of the law dealing with pharmacy and pharmacy
activities within the State of Arizona. The hereafter quoted pro-
visions govern the proposed questions submitted,

In Section 67-1525, A.C.A., 1939, as amended, the purpose of the
act is stated as follows:

"It is the purpose and intent of this act to
protect and safeguard the health and safety of
the public by regulating the practice of phar-
macy, the manufacture, production, sale and
distribution of drugs, medicinal chemicals,
poisons, patent and proprietary medicines in
the State of Arizona."

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and in Section 67-1505, Arizona Code of 1939, as amended, it is further provided that the duty of the Board of Pharmacy shall be:

"* * * to enforce the provisions of all laws of the state which pertain to the practice of pharmacy, the manufacture, production, sale or distribution of drugs, chemicals, or poisons and to their standard of strength and purity."

Moreover, in Section 67-1504, A.C.A., 1939, as amended, it is provided that:

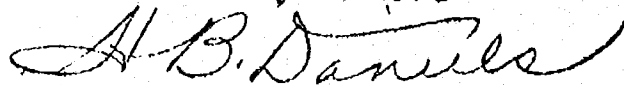
"Powers and authority of board. --The boards of pharmacy shall have power to make by-laws, rules and regulations necessary for the protection of the public appertaining to the practice of pharmacy and the lawful performance of its duties."

The Legislature may, in the exercise of its police power, impose reasonable restrictions on the sale of drugs and medicine, providing it adopts measures having a tendency to protect the lives and welfare of the public and not unjustly discriminating in favor of a certain class. STEWARD v. ROBERTSON, 40 P2d 979 (Ariz).

In conclusion, we are of the opinion that the board may legally promulgate regulations prohibiting the sale within the state of medicinal preparations which have been damaged, and forbid the sale of medical preparations which have been subjected to intense heat, fire or water, to such an extent that the package or container has been damaged.

Yours very truly

ROBERT MORRISON
The Attorney General



H. B. DANIELS
Assistant Attorney General

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